



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 21, 2004

Ms. Carol Longoria
Public Information Coordinator
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2004-5032

Dear Ms. Carol Longoria:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 203697.

The University of Texas Health Science Center at Houston ("UTHSC") received a request for communications to or from UTHSC and related documents concerning a named individual in connection with the Harris County Children's Assessment Center (the "center"). You claim that the requested information is excepted from disclosure under sections 552.101, 552.103, 552.107, 552.108, 552.111, and 552.138 of the Government Code. The center also believes that this request for information implicates the interests of third parties and has notified those parties of this request.¹ We have considered the exceptions you claim and have reviewed the information you submitted.

Section 552.108 excepts from required public disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information that the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986).

¹As of the date of this decision, this office has received no correspondence from any of the parties that the center notified. *See* Gov't Code § 552.304 (any person may submit written comments stating why information at issue in request for attorney general decision should or should not be released).

You inform us that the submitted information relates to the center, at which UTHSC provides medical services. You state that matters concerning services provided by the center and its partners are the subject of an ongoing investigation by the Harris County District Attorney's Office. You believe that the release of the submitted information would interfere with that investigation. Likewise, the Harris County District Attorney has notified this office that the district attorney joins with UTHSC in claiming that the submitted information should be withheld at this time under section 552.108. Based on your arguments and those of the district attorney and our review of the submitted information, we find that section 552.108(a)(1) is applicable in this instance. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases); Open Records Decision No. 372 (1983) (statutory predecessor to Gov't Code § 552.108 may be invoked by any proper custodian of information relating to incident involving alleged criminal conduct that remains the subject of active investigation or prosecution). We therefore conclude that UTHSC may withhold the submitted information under section 552.108. As we are able to make this determination, we need not address your other arguments against disclosure.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

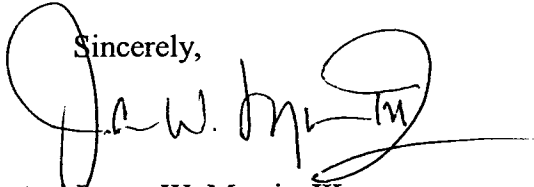
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "J.W. Morris, III", with a large, stylized flourish extending from the end of the signature.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 203697

Enc: Submitted documents

c: Mr. Steve McVicker
Houston Chronicle
P.O. Box 4250
Houston, Texas 77210
(w/o enclosures)

Mr. Joseph R. Larsen
Ogden, Gibson, White, Broocks & Longoria
711 Louisiana, Suite 2100
Houston, Texas 77002
(w/o enclosures)

Mr. Steve Schneider
Children's Assessment Center
2500 Bolsover
Houston, Texas 77005
(w/o enclosures)

Mr. John Healy
Fort Bend County District Attorney's Office
301 Jackson Street
Richmond, Texas 77460
(w/o enclosures)

Ms. Susan Morton
Fort Bend County District Attorney's Office
301 Jackson Street
Richmond, Texas 77460
(w/o enclosures)

Mr. Kurt Sistrunk
c/o Ms. Janis Roach
Galveston County Criminal District Attorney's Office
722 Moody, Suite 300
Galveston, Texas 77550
(w/o enclosures)

Mr. Scott Durfee
Harris County District Attorney's Office
1201 Franklin Street, Suite 600
Houston, Texas 77002
(w/o enclosures)

Mr. Michael McDougal
Montgomery County District Attorney's Office
301 Thompson #106
Conroe, Texas 77301
(w/o enclosures)